

Revenue Code as amended to December 31, 1988, with the following exceptions:

- a. Property depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, must continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.
- b. Additions or subtractions must be made to reflect differences between the depreciation or adjusted basis of property disposed of during the taxable year for federal and Wisconsin tax purposes.

In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the Internal Revenue Code.

4. Exceptions to Definition of Internal Revenue Code for Regulated Investment Companies, Real Estate Investment Trusts, and Real Estate Mortgage Investment Conduits for 1988 and Prior Years (1989 Act 31, amend sec. 71.26(2)(b)1., 2., and 3., and create nonstatutory provision, see effective dates below.)

The law changes described below apply to regulated investment companies (RICs), real estate investment trusts (REITs), and real estate mortgage investment conduits (REMICs).

- a. For 1986 and prior taxable years (years that end before July 1, 1987), changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the definition of "Internal Revenue Code" for Wisconsin purposes at the same time as for federal purposes.
- b. For taxable year 1987 (years that end after July 1, 1987, and before July 1, 1988), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987, with the following exceptions:
  - (1) For taxable years that end after July 1, 1987, and before December 31, 1987, "Internal Revenue Code" does not include changes to the federal Internal Revenue Code made by secs. 142 (limitations on deductions for meals, travel, and entertainment), 801 (limitations on use of cash method of accounting, 802 (simplified dollar-value LIFO method for certain small businesses), and 803 (capitalization and inclusion in inventory costs of certain expenses) of the Tax Reform Act of 1986 (P.L. 99-514).
  - (2) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) and the Technical and Miscellaneous

Revenue Act of 1986 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.

- (3) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
  - (4) Property depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, must continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.
- c. For taxable years that end after July 1, 1988, and before December 31, 1988, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, with the following exceptions:
- (1) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
  - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
  - (3) Property depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, must continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.
  - (4) Additions or subtractions must be made to reflect differences between the depreciation or adjusted basis of property disposed of during the taxable year for federal and Wisconsin tax purposes.
- d. For taxable years that begin after December 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exceptions:
- (1) Changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
  - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
  - (3) Property depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, must continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.

- (4) Additions or subtractions must be made to reflect differences between the depreciation or adjusted basis of property disposed of during the taxable year for federal and Wisconsin tax purposes.

5. Definition of Internal Revenue Code Updated for Insurance Companies for 1989 (1989 Act 31, create sec. 71.42(2)(c), effective for taxable years beginning after December 31, 1988.)

For insurance companies for taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1988, except that it does not include IRC sec. 847 relating to an additional deduction for insurers required to discount unpaid losses.

In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the Internal Revenue Code.

6. Exceptions to Definition of Internal Revenue Code for Insurance Companies for 1988 and Prior Years (1989 Act 31, amend sec. 71.42(2)(a) and (b), and create nonstatutory provision, see effective dates below.)

- a. For insurance companies for 1986 and prior taxable years, changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the definition of "Internal Revenue Code" for Wisconsin purposes at the same time as for federal purposes.
- b. For insurance companies for taxable year 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, except that changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes. The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
- c. For insurance companies for taxable years that begin after December 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exception. Changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647), except IRC sec. 847 relating to an additional deduction for insurers required to discount unpaid losses, apply for Wisconsin purposes at the same time as for federal purposes. The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.

7. Definition of Internal Revenue Code Updated for Nonprofit Organizations for 1989 (1989 Act 31, renumber sec. 71.22(4m) to sec. 71.22(4m)(a) and amend sec. 71.22(4m)(a) as renumbered; create sec. 71.22(4m)(b), see effective dates below.)

The law changes described below apply to nonprofit corporations subject to a tax on unrelated business taxable income.

- a. For taxable years that begin after July 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, except that changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes. In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the Internal Revenue Code.
- b. For taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1988. The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
8. Reference to Internal Revenue Code Updated for Corporation and Insurance Company Depreciation Purposes (1989 Act 31, amend sec. 71.26(3)(y) and create sec. 71.45(2)(a)13., effective for taxable years beginning on or after January 1, 1989.)

A corporation or insurance company may compute depreciation under either the Internal Revenue Code as amended to December 31, 1988, or the federal Internal Revenue Code in effect for the taxable year for which the return is filed, except that property placed in service prior to January 1, 1987, must continue to be depreciated under the method allowable for Wisconsin purposes for the year in which it was placed in service.

9. Wisconsin Taxable Years Conformed to Federal Taxable Years (1989 Act 31, amend secs. 71.22(10), 71.24(1), (6)(c) and (d), and (9), 71.26(4), 71.28(1fd)(a), (b), and (c), 71.29(11), 71.44(1)(a), (2)(a), (c), and (d), and (4)(b), 71.45(4), 71.47(1fd)(a), (b), and (c), 71.58(3), (4), (6), and (7)(b), 71.59(2)(a), 71.75(3), and 71.83(1)(a)2.; and create secs. 71.275, 71.42(5), 71.58(9), and nonstatutory provision; effective for taxable years beginning on or after August 1, 1988.)

"Taxable year" means the taxable period upon the basis of which the taxable income of the taxpayer is computed for federal income tax purposes.

The taxable year of a corporation that keeps its accounting records on the basis of a 52-53 week period ends on the last day of the month closest to the end of the 52-53 week period. Under prior law, "taxable year" meant the calendar year or any fiscal year ending after June 30 in that calendar year and before July 1 in the following calendar year.

As a result of this law change, taxpayers having taxable years beginning after July 31, 1988, and before January 1, 1989, must file two 1988 returns covering different taxable periods: one for the taxable year beginning in August through December 1987 and ending in July through November 1988, and a second 1988 return for the taxable year beginning in August through December 1988 and ending in July through November 1989. A 1989 tax return must be filed for the calendar year ending December 31, 1989, or any fiscal year beginning in 1989.

If a separate corporation income tax return is made for a fractional part of a year for federal income tax purposes, the corporation also must file a separate Wisconsin franchise or income tax return for that fractional year. The income must be computed and reported on the basis of the period for which the separate return is made, and that fractional part of the year will constitute a taxable year. The net income for the short period must be placed on an annual basis using the method applicable for federal income taxes under IRC sec. 443(b)(1). Therefore, if an affiliated group of corporations files two federal consolidated returns because a corporate acquisition or disposition occurred during the taxable year, the members of the group must also file two short-period returns for Wisconsin purposes, even though Wisconsin does not permit the filing of consolidated returns.

Returns for less than a full taxable year must be filed with the department on or before the date applicable for federal income taxes. Under prior law, a short-period return would have been due the 15th day of the third month following the close of the corporation's normal taxable year.

A claimant may claim the farmers' drought credit on only one return if the claimant files more than one 1988 return. The credit may not be claimed on a return for any year beginning after July 31, 1988.

If a tax rate under sec. 71.27, Wis. Stats., changes during a taxable year, the tax for that taxable year must be computed using the method under IRC sec. 15.

10. Interest Income Included in Net Income (1989 Act 31, amend secs. 71.26(3)(b) and 71.45(2)(a)3., effective for taxable years beginning on or after January 1, 1989.)

The following changes apply for taxable years that begin on or after January 1, 1989 (1989 and subsequent year tax returns):

- a. For corporations subject to the franchise tax under sec. 71.23(2), Wis. Stats., any interest income not included in federal taxable income must be added to federal taxable income to compute Wisconsin net income.

- b. For corporations subject to the income tax under sec. 71.23(1), Wis. Stats., any interest income not included in federal taxable income must be added to federal taxable income to compute Wisconsin net income, except interest income which is by federal law exempt from state taxation.

Under prior law, for taxable years 1987 and 1988, interest income excluded from federal taxable income under IRC sec. 103 was required to be added to federal taxable income to compute Wisconsin net income. Interest income exempt from federal taxation under provisions of other federal laws, such as 42 U.S.C. sec. 1437i(b), was not required to be added back.

In addition, it is clarified that for insurance companies subject to the franchise tax, any interest income not included in federal taxable income must be added to federal taxable income to compute Wisconsin net income.

11. Deduction for Certain Premium Amortizations and Interest Expenses Allocable to State and Local Bonds Clarified (1989 Act 31, create sec. 71.26(3)(hm), (ms), and (tm), effective for taxable years beginning on or after January 1, 1989.)

This provision clarifies that corporations may deduct amortizable state and local bond premiums. The definition of "Internal Revenue Code" is modified so that the rules in IRC secs. 171 and 1016(a) for federally taxable bonds apply for bonds that are taxable for Wisconsin tax purposes and the rules for federally tax-exempt bonds apply to bonds that are exempt for Wisconsin tax purposes.

In addition, it is clarified that financial institutions may deduct 100% of the interest that is allocable to state and local bonds. The definition of "Internal Revenue Code" is modified so that IRC sec. 291(a)(3) does not apply to deductions that are allocable to income that is taxable for Wisconsin purposes.

Note: These interpretations also apply to the 1987 and 1988 taxable years.

12. Deductible Dividends Clarified (1989 Act 31, amend sec. 71.26(3)(j), effective for taxable year 1987 and thereafter.)

The payor corporation must meet the "50% or more of net income" test for the year preceding the payment of the dividends. If the payor corporation was not subject to Wisconsin franchise or income tax for the preceding year, deductibility is determined using the payor corporation's net income or loss for the year the dividends are paid. Dividends deductible under sec. 71.26(3)(j), Wis. Stats., may be deducted only once, even though one or both requirements for deductibility are met.

13. Credits Includable in Income for Insurance Companies (1989 Act 31, create sec. 71.45(2)(a)10. and 11., effective for taxable years beginning on or after January 1, 1989.)

For taxable years that begin on or after January 1, 1989 (1989 and subsequent year tax returns), insurance companies, in determining net income for Wisconsin franchise tax purposes, must add back to federal

taxable income the amount of the community development finance credit, manufacturer's sales tax credit, research and research facilities credits, and development zone credits computed. Since development zone credits computed by a partnership are added to income at the partnership level, and that income is passed through and reported by the partners, the pass-through credits claimed by the partners do not have to be added back to their income a second time.

Insurance companies may deduct from federal taxable income any recapture of the development zone investment credit.

14. Treatment of Insurers Organized Under Chapter 613, Stats., Operating by Virtue of Section 148.03, 447.13, 449.15, or 613.80, Stats., Federalized (1989 Act 31, amend secs. 71.43(2) and 71.45(1), (2)(a)(intro.), (3)(intro.), and (4), effective for taxable year 1987 and thereafter.)

These amendments eliminate the requirement that insurers organized under ch. 613, Stats., operating by virtue of sec. 148.03 (plans of sickness care), 447.13 (dental care), 449.15 (prepaid optometric service plans), or 613.80 (hospital services) must determine their net income or loss using the provisions of the Internal Revenue Code applicable to mutual insurance companies having gross receipts over \$500,000. Beginning with the 1987 taxable year, the Tax Reform Act of 1986 revised the taxation of mutual insurance companies and eliminated the distinction, for tax purposes, between stock and mutual companies. Thus, these insurers will compute their income in the same manner for Wisconsin purposes as for federal purposes. If an insurer elects to be taxed only on investment income for federal purposes, that same election will apply for Wisconsin purposes.

15. Certain Income of a Real Estate Mortgage Investment Conduit Exempted From Tax (1989 Act 31, create sec. 71.26(1)(f), effective for taxable year 1987 and thereafter.)

For the 1987 taxable year and thereafter (years that begin after July 1, 1986), the income of a REMIC that is exempt for federal income tax purposes under IRC sec. 860A is exempt for Wisconsin corporation franchise and income tax purposes. The income of a REMIC is taxable to the holders of interests in the REMIC.

16. Payroll Factor of Apportionment Formula Clarified (1989 Act 31, amend sec. 71.25(8)(e), effective August 9, 1989.)

This provision clarifies that if the payroll factor is eliminated from the apportionment formula either by permission from the department or by order of the department, the sales factor of the apportionment formula must still be doubled-weighted.

17. Sales Factor Modified for Sales to the Federal Government (1989 Act 31, renumber sec. 71.25(9)(b) to sec. 71.25(9)(b)(intro.) and amend sec. 71.25(9)(b)(intro.) as renumbered; amend sec. 71.25(9)(a) and (b)2.; create sec. 71.25(9)(b)2m. and 3.; and amend sec. 71.25(9)(b)2m. as created, see effective dates below.)

For taxable years that begin on or after January 1, 1989, and before January 1, 1990 (1989 tax returns), sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and delivered to the federal government outside Wisconsin are included in the numerator of the sales factor (as Wisconsin sales) but are single-weighted. Sales of tangible personal property shipped from Wisconsin and delivered to the federal government within Wisconsin continue to be included in the numerator of the sales factor and double-weighted. Sales to federal government locations in Wisconsin which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin are not included in the numerator of the sales factor.

For taxable years that begin on or after January 1, 1990 (1990 and subsequent year tax returns), sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and delivered to the federal government outside Wisconsin are treated as follows:

- a. If the taxpayer is not within the jurisdiction, for income or franchise tax purposes, of the destination state, such sales are included in the numerator of the sales factor (as Wisconsin sales) but are single-weighted.
- b. If the taxpayer has nexus in the destination state, such sales are not included in the numerator of the sales factor.

Sales of tangible personal property shipped from Wisconsin and delivered to the federal government within Wisconsin continue to be included in the numerator of the sales factor and double-weighted. Sales to federal government locations in Wisconsin which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin are not included in the numerator of the sales factor.

Under prior law, all sales to the federal government that originated in Wisconsin were included in the numerator of the sales factor and were double-weighted.

18. Estimated Tax Requirements for Corporations, Trusts, and Other Entities Subject to Tax on Unrelated Business Taxable Income Amended (1989 Act 31, renumber sec. 71.84(2) to 71.82(2)(a) and amend sec. 71.84(2)(a) as renumbered, amend sec. 71.29(2), (3), (7)(intro.) and (b), (9)(a)(intro.) and (c), (10)(a) and (c), and (11), and create secs. 71.29(1)(c) and 71.84(2)(b), effective for taxable years that begin on or after January 1, 1990.)

The estimated tax rules in sec. 71.29, Stats., apply to corporations, trusts, and other entities that are subject to tax on unrelated business taxable income.

For purposes of computing the annualized income of any entity which is subject to tax on unrelated business taxable income, the taxable income for the months in the taxable year ending before the date one month before the due date for the installment must be used. Thus, these entities will have 45 days instead of 15 days to compute their estimated tax payments under the annualization rules.

For entities that are subject to tax on unrelated business taxable income, the "period of the underpayment" means the time period from the due date of the installment until either the 15th day of the 5th month beginning after the end of the taxable year or the date of payment, whichever is earlier.

If 90% of the tax shown on the return is not paid by the 15th day of the 5th month following the close of the taxable year, the difference between that amount and the estimated taxes paid, along with any interest due, will accrue delinquent interest under sec. 71.91(1)(a), Stats.

19. Research Expense Credit Amended (1989 Act 31, amend secs. 71.28(4)(a) and 71.47(3)(a), effective August 9, 1989.)

Corporations may claim a research expense credit for certain qualified research expenditures as defined under IRC sec. 41. However, any wages used to compute the development zone jobs credit may not be included in the amount of qualified research expenses. If the federal tax credit for research expenses is allowed to expire (the current sunset date is December 31, 1989), this will not cause the Wisconsin research credit to expire.

20. Development Zone Credits Amended (1989 Act 31, repeal secs. 71.28(1d)(a) and (e)2., (1ds)(d)3., and (4)(fm), 71.47(1d)(a) and (e)2., (1ds)(d)3., and (3)(fm), and 560.765(3)(b); renumber sec. 560.745(2)(c) to sec. 560.745(2)(c)(intro.) and sec. 560.765(3)(a) to sec. 560.765(3) and amend sec. 560.745(2)(c)(intro.) as renumbered; amend secs. 71.26(2)(a), 71.28(1d)(a)(intro.), 1., 2., and 3., (b), (d)2., (e), and (g), (1d)(am)1., 2., 4., and 7., (c), and (e)3., (1dL)(e), and (1ds)(a)2. and 3. and (b), and (4)(a), (f), (g), and (i), 71.47(1d)(a)(intro.), 1., 2., and 3., (b), (d)2., (e), and (g), (1d)(am)1., 2., 4., and 7., (c), and (e)3., (1dL)(e), and (1ds)(a)2. and 3., and (b), and (3)(a), (f), (g), and (i), 560.71(1)(d), 560.75(9)(b), and 560.768(1)(a), (b)1., and (3)(a)1.; repeal and recreate secs. 71.28(1d)(f) and (1dL)(a), 71.47(1d)(f) and (1dL)(a), 73.03(35) and 560.75(8); and create secs. 71.28(1d)(dm), (1d)(am)4e., 4g., 4m., and 4t., (1dL)(ag), (ar), (aw), and (bm), (1ds)(dm), and (4)(am), 71.34(1)(g), 71.47(1d)(dm), (1d)(am)4e., 4g., 4m., and 4t., (1dL)(ag), (ar), (aw), and (bm), (1ds)(dm), and (3)(am), 560.737, 560.745(2)(c)2. and (3) and 560.765(3)(bm); effective for taxable years beginning on or after August 1, 1988.)

a. General Provisions

- (1) Development zone credits computed by a partnership or tax-option corporation and passed through to its partners or shareholders must be added to the income of the partnership or tax-option corporation. Since the credits are added to income at the partnership or tax-option corporation level, and that income is passed through and reported by the partners or shareholders, the pass-through credits claimed by the partners or shareholders do not have to be added back to their income a second time.